

STATE OF MICHIGAN  
COURT OF APPEALS

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CAROLYN DANIEL,

Plaintiff-Appellant,

v

CHAD COTTOM and NICOLE COTTOM,

Defendants-Appellees.

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UNPUBLISHED

April 16, 2002

No. 224859

Ingham Circuit Court

LC No. 98-002880-DZ

Before: Cavanagh, P.J., and Sawyer and O'Connell, JJ.

MEMORANDUM.

Plaintiff filed this action for grandparent visitation under MCL 722.27b. Without conducting an evidentiary hearing to determine the child's best interests, the trial court granted defendants' motion for summary disposition holding as a matter of law that defendants, as the child's parents, have superior rights to determine the child's best interests. Plaintiff appeals by leave granted. We affirm.

Plaintiff principally challenges the trial court's decision to grant summary disposition to defendants without conducting an evidentiary hearing pursuant to MCL 722.27b. However, this Court, relying on *Troxel v Granville*, 530 US 57; 120 S Ct 2054; 147 L Ed 2d 49 (2000), recently held that MCL 722.27b is unconstitutional. *DeRose v DeRose*, 249 Mich App \_\_\_\_; \_\_\_\_ NW2d \_\_\_\_ (Docket No. 232780, issued January 25, 2002). As a result of this Court's decision in *DeRose*, plaintiff's complaint for grandparent visitation under MCL 722.27b does not state a cognizable claim for relief. Accordingly, we affirm the trial court's order granting summary disposition to defendants.

Affirmed.

/s/ Mark J. Cavanagh

/s/ David H. Sawyer

/s/ Peter D. O'Connell